

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

DONALD WHITEWATER,

Defendant.

CASE NO. 8:08CR401

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 40). The government adopted the PSR (Filing No. 39). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to ¶¶ 40, 41, 42 and 46. The objections will be heard at sentencing, and the government has the burden of proof. The Court appreciates the additional information stated in the objections.

IT IS ORDERED:

1. The Defendant's Objections to the Presentence Investigation Report (Filing No. 40) will be heard at sentencing;
2. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the

submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 10th day of April, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge